

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LOUIE F. SEDILLO,

Plaintiff,

v.

No. 18-cv-0616 RB/SMV

**HENRY CHAVEZ, CHRISTOPHER GALLAGOES,
NIKOLUS ORTEGA, ANTHONY ALFERO, and
KENNETH SMITH,**

Defendants.

ORDER ON MOTION TO SUMMONS DEFENDANTS

THIS MATTER is before the Court on Plaintiff's Motion to Summons Defendants and Serve Them with Civil Suite [sic] [Doc. 15], filed on September 5, 2019. The Court denies the Motion without prejudice as premature.

Because Plaintiff is a prisoner proceeding pro se, the Court is obligated to conduct a preliminary screening of the Complaint. *See* 28 U.S.C. § 1915A (2018). Whenever a prisoner brings a civil action against government officials, the Court is obligated to screen the prisoner's complaint or petition. *Id.* Section 1915A states:

- (a) Screening.—The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.
- (b) Grounds for dismissal.—On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint—
 - (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or
 - (2) seeks monetary relief from a defendant who is immune from such relief.

Id. § 1915A(a), (b). The Court has a similar obligation to screen the complaint when a pro se plaintiff is proceeding without prepayment of fees and costs under 28 U.S.C. § 1915(e)(2):

Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

- (A) the allegation of poverty is untrue; or
- (B) the action or appeal—
 - (i) is frivolous or malicious;
 - (ii) fails to state a claim on which relief may be granted; or
 - (iii) seeks monetary relief against a defendant who is immune from such relief.

Id. § 1915(e)(2). Requests for service of process, discovery, and submissions of proof are premature and unavailable prior to the Court's completion of its screening obligation. *See Jones v. Bock*, 549 U.S. 199, 213–14 (2007). If Plaintiffs' Complaint is not dismissed on initial screening, the Court will enter further orders governing service of process, discovery, and scheduling.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Summons Defendants and Serve Them with Civil Suite [sic] [Doc. 15] is **DENIED without prejudice** as premature.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge